

114TH CONGRESS
1ST SESSION

S. _____

To provide opportunities for broadband investment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. THUNE introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To provide opportunities for broadband investment, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Making Opportunities for Broadband Investment and
6 Limiting Excessive and Needless Obstacles to Wireless
7 Act” or the “MOBILE NOW Act”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Making 500 megahertz available.
- Sec. 4. Amendments to the Spectrum Pipeline Act of 2015.

- Sec. 5. Reallocation incentives.
- Sec. 6. Payments related to spectrum transitions.
- Sec. 7. Unlicensed services in guard bands.
- Sec. 8. Prioritize discontinuance.
- Sec. 9. Pre-auction funding.
- Sec. 10. Immediate transfer of funds.
- Sec. 11. Reports on 3 gigahertz bands.
- Sec. 12. Millimeter wave rulemaking.
- Sec. 13. Facilities deployment on Federal property.
- Sec. 14. Facilities deployment on non-Federal property.
- Sec. 15. Dig once.
- Sec. 16. National broadband facilities asset database.
- Sec. 17. Federal spectrum transparency and value.
- Sec. 18. Rule of construction.
- Sec. 19. Relationship to Middle Class Tax Relief and Job Creation Act of 2012.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Communications Commission.

5 (2) EXECUTIVE DEPARTMENT.—The term “Ex-
6 ecutive department” has the meaning given the term
7 in section 101 of title 5, United States Code.

8 (3) FEDERAL ENTITY.—The term “Federal en-
9 tity” has the meaning given the term in section
10 113(n) of the National Telecommunications and In-
11 formation Administration Organization Act (47
12 U.S.C. 923(n)).

13 (4) INDEPENDENT ESTABLISHMENT.—The
14 term “independent establishment” has the meaning
15 given the term in section 104 of title 5, United
16 States Code.

1 (5) NTIA.—The term “NTIA” means the Na-
2 tional Telecommunications and Information Admin-
3 istration of the Department of Commerce.

4 (6) OMB.—The term “OMB” means the Office
5 of Management and Budget.

6 (7) PPSG.—The term “PPSG” means the Pol-
7 icy and Plans Steering Group.

8 (8) SECRETARY.—The term “Secretary” means
9 the Secretary of Commerce.

10 **SEC. 3. MAKING 500 MEGAHERTZ AVAILABLE.**

11 (a) REQUIREMENTS.—

12 (1) IN GENERAL.—Consistent with the Presi-
13 dential Memorandum of June 28, 2010, entitled
14 “Unleashing the Wireless Broadband Revolution”
15 and establishing a goal of making a total of 500
16 megahertz of Federal and non-Federal spectrum
17 available for wireless broadband use by 2020, not
18 later than December 31, 2020, the Secretary, work-
19 ing through the NTIA, and the Commission shall
20 make available a total of at least 255 megahertz of
21 Federal and non-Federal spectrum below the fre-
22 quency of 3550 megahertz for mobile and fixed wire-
23 less broadband use.

24 (2) AVAILABILITY.—The spectrum made avail-
25 able under paragraph (1) shall be made available to

1 be licensed by the Commission for exclusive use, or
2 made available for shared use by non-Federal and
3 Government users, to enable the deployment of li-
4 censed or unlicensed wireless broadband services.

5 (3) AUCTION DEADLINE.—Any spectrum made
6 available under this section for mobile or fixed wire-
7 less broadband use by competitive bidding under sec-
8 tion 309(j) of the Communications Act of 1934 (47
9 U.S.C. 309(j)) shall be auctioned not later than De-
10 cember 31, 2020.

11 (4) NON-ELIGIBLE BANDS.—For purposes of
12 satisfying the requirement under paragraph (1), the
13 following spectrum bands shall not be counted:

14 (A) The band between 1695 and 1710
15 megahertz.

16 (B) The band between 1755 and 1780
17 megahertz.

18 (C) The band between 2155 and 2180
19 megahertz.

20 (5) RELOCATION PRIORITIZED OVER SHAR-
21 ING.—This section shall be carried out in accordance
22 with section 113(j) of the National Telecommuni-
23 cations and Information Administration Organiza-
24 tion Act (47 U.S.C. 923(j)), as amended by this Act.

25 (b) POLICY AND PLANS STEERING GROUP.—

1 (1) IN GENERAL.—The Secretary, working
2 through the NTIA, shall convene the PPSG to ad-
3 vise the NTIA on carrying out subsection (a).

4 (2) PARTICIPATION OF AGENCY HEADS.—The
5 Secretaries of Defense, the Treasury, Transpor-
6 tation, State, the Interior, Agriculture, Energy, and
7 Homeland Security, the Attorney General, the Ad-
8 ministrators of the National Aeronautics and Space
9 Administration and the Federal Aviation Adminis-
10 tration, the Director of National Intelligence, the
11 Commandant of the United States Coast Guard, and
12 the head of any other Executive department or inde-
13 pendent establishment that is authorized to use
14 spectrum shall—

15 (A) participate and cooperate fully in the
16 activities of the Secretary in carrying out sub-
17 section (a); and

18 (B) promptly provide appropriate funding
19 and staff resources for agency support to the
20 activities of the Secretary in carrying out sub-
21 section (a) and the work of the PPSG.

22 (c) DIRECTOR OF OMB.—In consultation with af-
23 fected departments, agencies, and offices, the Director of
24 OMB shall work with the Secretary, through the NTIA,
25 and the Commission to provide adequate resources, incen-

1 tives, and assistance to enable affected departments, agen-
2 cies, and offices to carry out subsection (a).

3 (d) FCC.—The Commission shall work closely with
4 the Secretary, through the NTIA, to carry out the duties
5 of the Commission under this section, including—

6 (1) repurposing non-Federal spectrum as ap-
7 propriate; and

8 (2) identifying the mechanisms necessary to en-
9 sure compliance with any decisions made by the
10 Commission to carry out this section.

11 (e) ADMINISTRATIVE SUPPORT.—To the extent per-
12 mitted by law and using existing appropriations, the Sec-
13 retary, through the NTIA, shall provide administrative
14 support for the PPSG.

15 (f) RULES OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed—

17 (1) to impair or otherwise affect the functions
18 of the Director of OMB relating to budgetary, ad-
19 ministrative, or legislative proposals; or

20 (2) to require the disclosure of classified infor-
21 mation, law enforcement sensitive information, or
22 other information that must be protected in the in-
23 terest of national security.

1 **SEC. 4. AMENDMENTS TO THE SPECTRUM PIPELINE ACT**
2 **OF 2015.**

3 (a) SPECTRUM PIPELINE ACT OF 2015.—The Spec-
4 trum Pipeline Act of 2015 (Public Law 114–74; 129 Stat.
5 584) is amended—

6 (1) in section 1004(a), by striking “30 mega-
7 hertz” and inserting “50 megahertz”;

8 (2) in section 1006(c)(1), by striking “January
9 1, 2022” and inserting “January 21, 2021”; and

10 (3) in section 1008, in the matter preceding
11 paragraph (1)—

12 (A) by inserting “(a) IN GENERAL.—” be-
13 fore “Not later than” and indenting appro-
14 priately; and

15 (B) by inserting “, after an opportunity for
16 public comment,” after “the Commission”.

17 (b) SPECTRUM RELOCATION FUND.—Section 118 of
18 the National Telecommunications and Information Ad-
19 ministration Organization Act (47 U.S.C. 928) is amend-
20 ed in subsection (g)(2)(E)(ii)(I)(aa), by inserting “sub-
21 stantially” before “increase the probability of relocation
22 from or sharing of Federal spectrum”.

23 **SEC. 5. REALLOCATION INCENTIVES.**

24 (a) IN GENERAL.—Section 113 of the National Tele-
25 communications and Information Administration Organi-
26 zation Act (47 U.S.C. 923) is amended—

1 (1) by redesignating subsection (l) as subsection
2 (m); and

3 (2) by inserting after subsection (k) the fol-
4 lowing:

5 “(1) PROVIDING INCENTIVES FOR RELINQUISHING OR
6 SHARING SPECTRUM.—

7 “(1) DEFINITION OF NET PROCEEDS.—In this
8 subsection, the term ‘net proceeds’ means proceeds
9 (including deposits and upfront payments from suc-
10 cessful bidders) attributable to the auction of eligible
11 frequencies, less any relocation or sharing costs and
12 administrative costs.

13 “(2) SHARING OF NET AUCTION PROCEEDS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graphs (B) through (E), the Technical Panel,
16 upon the vote of not fewer than 2 members of
17 the Technical Panel, may enter into an agree-
18 ment with a Federal entity authorized to use a
19 band of eligible frequencies that is proposed to
20 be reallocated from Federal use to non-Federal
21 use or to shared use and to be assigned by com-
22 petitive bidding under section 309(j) of the
23 Communications Act of 1934 (47 U.S.C.
24 309(j)), under which—

1 “(i) the Federal entity agrees to relin-
2 quish or share the use of the band; and

3 “(ii) the Technical Panel agrees to
4 grant the Federal entity a specified per-
5 centage of the net proceeds of the auc-
6 tioned spectrum.

7 “(B) LIMITATION.—A Federal entity—

8 “(i) may not receive more than 5 per-
9 cent of the net proceeds of auctioned spec-
10 trum under subparagraph (A) unless the
11 Federal entity discontinues all operations
12 that the Federal entity conducts on the
13 frequency band that is the subject of the
14 auction; and

15 “(ii) may not receive more than 25
16 percent of the net proceeds of auctioned
17 spectrum under subparagraph (A).

18 “(C) MULTIPLE USERS.—If multiple Fed-
19 eral entities occupy a frequency band described
20 in subparagraph (A)—

21 “(i) the Technical Panel shall endeavor
22 or to enter into agreements with all of the
23 Federal entities occupying the frequency
24 band to clear the frequency band entirely
25 for auction;

1 “(ii) the total sum granted to the
2 Federal entities shall not exceed 25 per-
3 cent of the net proceeds of the auctioned
4 spectrum if all of the Federal entities au-
5 thorized to use the frequency band dis-
6 continue all operations that the Federal
7 entities conduct on the frequency band;
8 and

9 “(iii) the total sum granted to the
10 Federal entities shall not exceed 15 per-
11 cent of the net proceeds of the auctioned
12 spectrum if any of the Federal entities au-
13 thorized to use the frequency band—

14 “(I) relocates to another fre-
15 quency band; or

16 “(II) shares the frequency band.

17 “(D) MINIMUM AWARD NECESSARY.—If
18 the Technical Panel determines that it is appro-
19 priate to award a percentage of the net pro-
20 ceeds of auctioned spectrum under subpara-
21 graph (A), the Technical Panel shall award a
22 percentage that is no higher than necessary to
23 provide an incentive to a Federal entity to relin-
24 quish or share the frequency band to achieve
25 the goals described in subparagraph (E).

1 “(E) REQUIREMENTS.—

2 “(i) IN GENERAL.—The Technical
3 Panel may enter into an agreement under
4 subparagraph (A) that awards a Federal
5 entity a percentage of the net proceeds of
6 an auction of spectrum if—

7 “(I) because of the award, it is
8 much more likely than not that the in-
9 crease in net proceeds, compared to
10 what the net proceeds would be if the
11 Federal entity could only be reim-
12 bursed for relocation or sharing costs
13 under this section and section 118 as
14 in effect on the day before the date of
15 enactment of the MOBILE NOW Act,
16 will be greater than the amount of net
17 proceeds awarded to the Federal enti-
18 ty under the agreement; and

19 “(II) the Director of the Office of
20 Management and Budget, the Sec-
21 retary of Commerce, and the Chair-
22 man of the Federal Communications
23 Commission have certified to the
24 Committee on Commerce, Science,
25 and Transportation of the Senate and

1 the Committee on Energy and Com-
2 merce of the House of Representatives
3 that the requirements of subclause (I)
4 have been satisfied.

5 “(ii) SPECIFIC GOALS.—In deter-
6 mining whether entering into an agreement
7 under subparagraph (A) meets the require-
8 ment under clause (i), the Technical Panel
9 shall consider whether because of the
10 agreement—

11 “(I) more frequency bands will be
12 made available for auction;

13 “(II) the Federal entity will va-
14 cate a frequency band more quickly;

15 “(III) the frequency band will be
16 assigned to a non-Federal entity more
17 quickly;

18 “(IV) the frequency band will be
19 less encumbered by sharing restric-
20 tions relating to—

21 “(aa) geography;

22 “(bb) time; or

23 “(cc) power levels;

24 “(V) the frequency band will be
25 assigned for non-Federal use in a

1 manner that leads to increased har-
2 monization with international alloca-
3 tions of the frequency band; and

4 “(VI) the value of other fre-
5 quency bands will be increased.

6 “(F) USE OF PROCEEDS.—Amounts paid
7 to a Federal entity under an agreement under
8 subparagraph (A)—

9 “(i) may be used by the Federal enti-
10 ty for—

11 “(I) any communications or spec-
12 trum-related purpose within the scope
13 of the statutory mission of the Fed-
14 eral entity; or

15 “(II) any purpose permitted
16 under the terms and conditions of an
17 appropriations account of the Federal
18 entity for which budgetary resources
19 were cancelled for a fiscal year under
20 a sequestration order under the Bal-
21 anced Budget and Emergency Deficit
22 Control Act of 1985 (Public Law 99–
23 177; 99 Stat. 1038), except that the
24 amount used for that purpose for a
25 fiscal year may not exceed the amount

1 by which the amount available to the
2 Federal entity was reduced under the
3 sequestration order for that fiscal
4 year; and

5 “(ii) shall be in addition to any funds
6 that the Federal entity may receive as re-
7 imbursement for relocation or sharing
8 costs under section 118(c).

9 “(G) REGULATIONS.—Not later than 180
10 days after the date of enactment of the MO-
11 BILE NOW Act, the NTIA shall, after public
12 notice and comment, in consultation with the
13 Commission, and subject to approval by the Di-
14 rector of the Office of Management and Budg-
15 et, adopt additional regulations to govern the
16 workings of the Technical Panel in carrying out
17 this subsection.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
19 Section 118 of the National Telecommunications and In-
20 formation Administration Organization Act (47 U.S.C.
21 928) is amended by adding at the end the following:

22 “(j) PAYMENT OF NET AUCTION PROCEEDS.—

23 “(1) IN GENERAL.—Notwithstanding sub-
24 sections (c) through (e), with respect to any auction
25 occurring after the date of enactment of the MO-

1 BILE NOW Act of licenses for the use of spectrum
2 vacated or shared by eligible Federal entities, there
3 is appropriated from the Fund and available to the
4 Director of OMB for use in accordance with para-
5 graph (2) an amount equal to any percentage of net
6 proceeds (as defined in section 113(l)) from the auc-
7 tion agreed to be awarded by the Technical Panel
8 under section 113(l)(2)(A).

9 “(2) USE OF AMOUNTS.—The Director of
10 OMB, in consultation with the NTIA, shall use
11 amounts made available under paragraph (1) to
12 make payments to Federal entities to carry out
13 agreements entered into under section
14 113(l)(2)(A).”.

15 **SEC. 6. PAYMENTS RELATED TO SPECTRUM TRANSITIONS.**

16 (a) IN GENERAL.—Section 113 of the National Tele-
17 communications and Information Administration Organi-
18 zation Act (47 U.S.C. 923), as amended by section 5, is
19 further amended—

20 (1) by redesignating subsection (m) as sub-
21 section (n); and

22 (2) by inserting after subsection (l) the fol-
23 lowing:

24 “(m) CERTAIN PAYMENTS RELATED TO SPECTRUM
25 TRANSITIONS.—

1 “(1) DEFINITIONS.—In this subsection—

2 “(A) the term ‘covered transition plan’
3 means a transition plan that has been—

4 “(i) submitted to the NTIA and the
5 Technical Panel under subsection (h);

6 “(ii) reviewed and deemed sufficient
7 by the Technical Panel under that sub-
8 section; and

9 “(iii) published as provided under that
10 subsection;

11 “(B) the term ‘OMB’ means the Office of
12 Management and Budget; and

13 “(C) the term ‘Technical Panel’ means the
14 Technical Panel established under subsection
15 (h)(3).

16 “(2) CERTAIN PAYMENTS PERMITTED.—In
17 order to expedite the commercial use of eligible fre-
18 quencies described in paragraph (g)(2) and notwith-
19 standing section 1341, subchapter II of chapter 15,
20 and section 3302 of title 31, United States Code, an
21 eligible Federal entity may accept payments in cash
22 or in kind from any person—

23 “(A) to complete implementation of a cov-
24 ered transition plan more quickly than de-
25 scribed in such covered transition plan; or

1 “(B) to allow commercial or other non-
2 Federal entities more timely access to eligible
3 frequencies being reallocated in accordance with
4 a covered transition plan.

5 “(3) CONDITIONS.—In the case of any payment
6 made under paragraph (2)—

7 “(A) an eligible Federal entity may not ac-
8 cept any payment under paragraph (2) prior to
9 the eligible frequencies being reallocated by
10 competitive bidding under section 309(j) of the
11 Communications Act of 1934 (47 U.S.C.
12 309(j)) in accordance with a covered transition
13 plan, but may accept payment prior to the com-
14 pletion of reallocation or sharing;

15 “(B) an eligible Federal entity may not ac-
16 cept any payment under paragraph (2) unless—

17 “(i) the entity submits a proposal to
18 the NTIA, OMB, and the Technical
19 Panel—

20 “(I) describing the activities for
21 which the entity is to be paid or reim-
22 bursed; and

23 “(II) demonstrating how the pay-
24 ments will satisfy the requirements

1 under subparagraphs (2)(A) or
2 (2)(B); and

3 “(ii) the Technical Panel approves the
4 proposal submitted under clause (i)—

5 “(I) based on written findings of
6 the Technical Panel, made publicly
7 available on the website of the NTIA,
8 that—

9 “(aa) the funded activities
10 are very likely to complete imple-
11 mentation of a covered transition
12 plan more quickly than described
13 in such covered transition plan or
14 allow commercial or other non-
15 Federal entities more timely ac-
16 cess to eligible frequencies being
17 reallocated subject to a covered
18 transition plan, as described in
19 the proposal; and

20 “(bb) the eligible Federal
21 entity would be unable to achieve
22 the outcomes described in clause
23 (i)(II) without the payment in
24 cash or in kind that the eligible

1 Federal entity proposes to accept;

2 and

3 “(II) which, when approved, shall

4 be considered an update to the cov-

5 ered transition plan of the Federal en-

6 tity;

7 “(C) the amount of the payment accepted

8 shall be determined by NTIA and OMB based

9 on the speed with which the eligible Federal en-

10 tity clears its use of the eligible frequencies to

11 satisfy the requirements under subparagraphs

12 (A) or (B) of paragraph (2);

13 “(D) the payment may not be made until

14 30 days after the Director of OMB and the As-

15 sistant Secretary certify in writing to the Com-

16 mittee on Commerce, Science, and Transpor-

17 tation of the Senate and the Committee on En-

18 ergy and Commerce of the House of Represent-

19 atives that they have reasonably concluded—

20 “(i) the activities funded by the pay-

21 ment are very likely to complete implemen-

22 tation of a covered transition plan more

23 quickly than described in such covered

24 transition plan or allow commercial or

25 other non-Federal entities more timely ac-

1 cess to eligible frequencies being reallo-
2 cated subject to a covered transition plan,
3 as described in the proposal; and

4 “(ii) the eligible Federal entity would
5 be unable to achieve the outcomes de-
6 scribed in subparagraph (B)(i)(II) without
7 the payment that the eligible Federal enti-
8 ty proposes to accept; and

9 “(E) the eligible Federal entity shall use
10 the payment only for activities that OMB and
11 the NTIA determine will achieve the outcomes
12 described in subparagraph (B)(i)(II) or other-
13 wise satisfy the requirements under subpara-
14 graphs (A) or (B) of paragraph (2).”.

15 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
16 Section 1002(3) of the Spectrum Pipeline Act of 2015
17 (Public Law 114–74; 129 Stat. 584) is amended by strik-
18 ing “section 113(l)” and inserting “section 113(n)”.

19 **SEC. 7. UNLICENSED SERVICES IN GUARD BANDS.**

20 (a) **IN GENERAL.**—The Commission shall adopt rules
21 that permit unlicensed services to use any frequencies that
22 are designated as guard bands to protect frequencies allo-
23 cated after the date of enactment of this Act by competi-
24 tive bidding under section 309(j) of the Communications
25 Act of 1934 (47 U.S.C. 309(j)), including spectrum that

1 acts as a duplex gap between transmit and receive fre-
2 quencies.

3 (b) MAKING 500 MEGAHERTZ AVAILABLE.—The
4 Commission shall adopt rules that permit unlicensed serv-
5 ices to use any of the eligible 255 megahertz described
6 in section 3(a)(1) of this Act that are identified for mobile
7 or fixed wireless broadband use and that are designated
8 as guard bands to protect frequencies allocated by com-
9 petitive bidding under section 309(j) of the Communica-
10 tions Act of 1934 (47 U.S.C. 309(j)), including spectrum
11 that acts as a duplex gap between transmit and receive
12 frequencies.

13 (c) 50 MEGAHERTZ.—The Commission shall adopt
14 rules that permit unlicensed services to use any of the eli-
15 gible 50 megahertz described in section 1004(a) of the
16 Spectrum Pipeline Act of 2015 (Public Law 114–74; 129
17 Stat. 584), as amended by section 4 of this Act, that are
18 identified for reallocation from Federal use to non-Federal
19 use or shared Federal and non-Federal use, or a combina-
20 tion thereof, and that are designated as guard bands to
21 protect frequencies allocated by competitive bidding under
22 section 309(j) of the Communications Act of 1934 (47
23 U.S.C. 309(j)), including spectrum that acts as a duplex
24 gap between transmit and receive frequencies.

1 (d) LIMITATION.—The Commission may not permit
2 any use of a guard band under this section that would
3 cause harmful interference to a licensed service.

4 **SEC. 8. PRIORITIZE DISCONTINUANCE.**

5 Section 113(j) of the National Telecommunications
6 and Information Administration Organization Act (47
7 U.S.C. 923(j)) is amended—

8 (1) in the heading, by inserting “OR DIS-
9 CONTINUANCE” after “RELOCATION”; and

10 (2) by inserting “or discontinuance of the oper-
11 ations that the Federal entity conducts on the band”
12 after “from the band” each place it appears.

13 **SEC. 9. PRE-AUCTION FUNDING.**

14 Section 118(d)(3)(B)(i)(II) of the National Tele-
15 communications and Information Administration Organi-
16 zation Act (47 U.S.C. 928(d)(3)(B)(i)(II)) is amended by
17 striking “5 years” and inserting “8 years”.

18 **SEC. 10. IMMEDIATE TRANSFER OF FUNDS.**

19 Section 118(e)(1) of the National Telecommuni-
20 cations and Information Administration Organization Act
21 (47 U.S.C. 928(e)(1)) is amended by adding at the end
22 the following:

23 “(D) At the request of an eligible Federal
24 entity, the Director of OMB may transfer the
25 amount under subparagraph (A) immediately—

1 “(i) after the frequencies are reallo-
2 cated by competitive bidding under section
3 309(j) of the Communications Act of 1934
4 (47 U.S.C. 309(j)); or

5 “(ii) in the case of an incumbent Fed-
6 eral entity that is incurring relocation or
7 sharing costs to accommodate sharing
8 spectrum frequencies with another Federal
9 entity, after the frequencies from which the
10 other eligible Federal entity is relocating
11 are reallocated by competitive bidding
12 under section 309(j) of the Communica-
13 tions Act of 1934 (47 U.S.C. 309(j)), with-
14 out regard to the availability of such sums
15 in the Fund.

16 “(E) Prior to the deposit of proceeds into
17 the Fund from an auction, the Director of
18 OMB may borrow from the Treasury the
19 amount under subparagraph (A) for a transfer
20 under subparagraph (D). The Treasury shall
21 immediately be reimbursed, without interest,
22 from funds deposited into the Fund.”.

23 **SEC. 11. REPORTS ON 3 GIGAHERTZ BANDS.**

24 (a) BETWEEN 3100 MEGAHERTZ AND 3550 MEGA-
25 HERTZ.—Not later than 3 years after the date of enact-

1 ment of this Act, the Secretary shall submit to the Presi-
2 dent, the Committee on Commerce, Science, and Trans-
3 portation of the Senate, and the Committee on Energy
4 and Commerce of the House of Representatives a report
5 identifying no less than 100 megahertz of spectrum be-
6 tween the frequencies of 3100 megahertz and 3550 mega-
7 hertz that is most suitable for sharing with commercial
8 unlicensed services to improve wireless broadband
9 connectivity.

10 (b) BETWEEN 3700 MEGAHERTZ AND 4200 MEGA-
11 HERTZ.—Not later than 3 years after the date of enact-
12 ment of this Act, the Commission shall—

13 (1) after an opportunity for public comment,
14 complete an inquiry regarding whether and, if so,
15 how the Commission should apply rules that allow
16 sharing between incumbent operations and new li-
17 censed and unlicensed services to bands between fre-
18 quencies of 3700 megahertz and 4200 megahertz,
19 including consideration of whether rules similar to
20 those relating to the frequencies between 3550
21 megahertz and 3650 megahertz are appropriate for
22 the frequencies between 3700 megahertz and 4200
23 megahertz; and

24 (2) submit to the Committee on Commerce,
25 Science, and Transportation of the Senate and the

1 Committee on Energy and Commerce of the House
2 of Representatives a report on the results of the in-
3 quiry under paragraph (1), including a summary of
4 the public comments to the inquiry.

5 **SEC. 12. MILLIMETER WAVE RULEMAKING.**

6 (a) IN GENERAL.—Not later than June 30, 2017, the
7 Commission, in consultation with the NTIA, shall conduct
8 a rulemaking proceeding to develop service rules to au-
9 thorize mobile and fixed terrestrial wireless operations, in-
10 cluding for advanced mobile service operations, in—

11 (1) the band between 24250 and 24450 mega-
12 hertz;

13 (2) the band between 25050 and 25250 mega-
14 hertz;

15 (3) the band between 31800 and 33400 mega-
16 hertz;

17 (4) the band between 42000 and 42500 mega-
18 hertz

19 (5) the band between 71000 and 76000 mega-
20 hertz;

21 (6) the band between 81000 and 86000 mega-
22 hertz; and

23 (7) any other frequency bands between 6000
24 megahertz and 90000 megahertz that the Commis-
25 sion considers appropriate.

1 (b) CONSIDERATIONS.—In conducting the rule-
2 making under subsection (a), the Commission shall—

3 (1) consider how the bands described in that
4 subsection may be used to provide commercial wire-
5 less broadband service, including whether—

6 (A) such spectrum may be best used for li-
7 censed or unlicensed services, or some combina-
8 tion thereof; and

9 (B) to permit additional licensed oper-
10 ations in such bands on a shared basis with ex-
11 isting operations present in the bands as of the
12 date of enactment of this Act;

13 (2) consider the feasibility and cost of relo-
14 cating systems operating in the bands described in
15 that subsection, if any such systems exist;

16 (3) consider if the bands described in that sub-
17 section may be used internationally for wireless
18 broadband services; and

19 (4) include technical characteristics under
20 which the bands described in that subsection may be
21 employed for mobile and fixed terrestrial wireless op-
22 erations, including any appropriate coexistence re-
23 quirements.

1 **SEC. 13. FACILITIES DEPLOYMENT ON FEDERAL PROP-**
2 **ERTY.**

3 Section 6409(b) of the Middle Class Tax Relief and
4 Job Creation Act of 2012 (47 U.S.C. 1455(b)) is amend-
5 ed—

6 (1) by striking paragraph (1) and inserting the
7 following:

8 “(1) GRANT.—If an executive agency, a State,
9 a political subdivision or agency of a State, or a per-
10 son, firm, or organization applies for the grant of an
11 easement or right-of-way to, in, over, or on a build-
12 ing or other property owned by the Federal Govern-
13 ment for the right to install, construct, modify, or
14 maintain a communications facility installation, the
15 executive agency having control of the building or
16 other property may grant to the applicant, on behalf
17 of the Federal Government and subject to paragraph
18 (5), an easement or right-of-way to perform such in-
19 stallation, construction, modification, and mainte-
20 nance.”; and

21 (2) by adding at the end the following:

22 “(5) TIMING FOR CONSIDERATION OF APPLICA-
23 TIONS.—

24 “(A) IN GENERAL.—Not later than 150
25 days after the date on which an executive agen-
26 cy receives a duly filed application for an ease-

1 ment or right-of-way under this subsection, the
2 executive agency shall—

3 “(i) grant or deny, on behalf of the
4 Federal Government, the application; and
5 “(ii) notify the applicant of the grant
6 or denial.

7 “(B) EXPLANATION.—If an executive
8 agency denies an application under subpara-
9 graph (A), the executive agency shall notify the
10 applicant in writing, including a clear statement
11 of the reasons for the denial.

12 “(C) APPLICABILITY OF ENVIRONMENTAL
13 LAWS.—Nothing in this paragraph shall be con-
14 strued to relieve an executive agency of the re-
15 quirements of the National Historic Preserva-
16 tion Act (16 U.S.C. 470 et seq.) or the Na-
17 tional Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.).

19 “(D) SINGLE POINT OF CONTACT.—Upon
20 receiving an application under subparagraph
21 (A), an executive agency shall designate an in-
22 dividual within the executive agency to act as
23 the point of contact with the applicant.

1 “(6) DEFINITION OF COMMUNICATIONS FACIL-
2 ITY INSTALLATION.—In this subsection, the term
3 ‘communications facility installation’ includes—

4 “(A) any wireless or wireline infrastructure
5 for the transmission of writing, signs, signals,
6 data, images, pictures, and sounds of all kinds;

7 “(B) the transmitting device, tower, or
8 support structure, and any equipment, switches,
9 wiring, cabling, power sources, shelters, or cabi-
10 nets, associated with the provision of commu-
11 nications services; and

12 “(C) any antenna or apparatus that—

13 “(i) is designed for the purpose of
14 emitting radio frequency;

15 “(ii) is designed to be operated, or is
16 operating, from a fixed location pursuant
17 to authorization by the Commission; and

18 “(iii) is added to a tower, building, or
19 other structure.”.

20 **SEC. 14. FACILITIES DEPLOYMENT ON NON-FEDERAL**
21 **PROPERTY.**

22 (a) TIMELINESS OF LOCAL ACTION ON WIRELESS
23 DEPLOYMENT.—Section 332(c)(7)(B) of the Communica-
24 tions Act of 1934 (47 U.S.C. 332(c)(7)(B)) is amended

1 by striking clauses (i), (ii), and (iii) and inserting the fol-
2 lowing:

3 “(i) A State or local law, including
4 any statute, ordinance, regulation, deci-
5 sion, or other legal requirement, that regu-
6 lates the placement, construction, and
7 modification of personal wireless service fa-
8 cilities shall not—

9 “(I) unreasonably discriminate
10 among providers of functionally equiv-
11 alent services or among providers of
12 personal wireless service facilities;

13 “(II) prohibit or have the effect
14 of prohibiting the provision of per-
15 sonal wireless services or personal
16 wireless service facilities, or the ability
17 of any entity to provide any service in
18 support of personal wireless service
19 facilities;

20 “(III) require removal or replace-
21 ment of a personal wireless service fa-
22 cility due to—

23 “(aa) the passage of time; or

24 “(bb) the availability of al-
25 ternative technology or design;

1 “(IV) establish or enforce regula-
2 tions or procedures to evaluate radio
3 frequency signal strength or existence,
4 or the adequacy of service coverage,
5 capacity, or quality;

6 “(V) prohibit the placement of
7 emergency backup power systems that
8 otherwise comply with Federal and
9 State environmental regulations appli-
10 cable to such systems; or

11 “(VI) assess fees for the place-
12 ment, construction, and modification
13 of personal wireless service facilities
14 that are—

15 “(aa) discriminatory; or

16 “(bb) not technology-neu-
17 tral.

18 “(ii)(I) A State or local government or
19 instrumentality thereof shall act on any re-
20 quest for authorization to place, construct,
21 or modify personal wireless service facili-
22 ties within a reasonable period of time, as
23 may be defined by the Commission, after
24 the request is duly filed with such govern-
25 ment or instrumentality, taking into ac-

1 count the nature and scope of such re-
2 quest.

3 “(II) The requirement to act on
4 a request within a reasonable period
5 of time under subclause (I) shall
6 apply collectively to all proceedings re-
7 quired for the approval of the request.

8 “(iii) Any decision by a State or local
9 government or instrumentality thereof to
10 deny a request to place, construct, or mod-
11 ify personal wireless service facilities shall
12 be in writing and supported by substantial
13 evidence contained in a written record and
14 publicly released contemporaneously.”.

15 (b) DAS AND SMALL CELL INFRASTRUCTURE.—Not
16 later than December 31, 2016, the Commission shall issue
17 a Report and Order in its Program Alternatives for Small
18 Wireless Communications Facility Deployments pro-
19 ceeding (WT Docket 15-180).

20 **SEC. 15. DIG ONCE.**

21 (a) POLICY.—It is the policy of the United States to
22 encourage the deployment of communications facilities
23 and services because of the benefits to interstate com-
24 merce from investment in and use of such communications
25 facilities and services.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that Federal agencies should endeavor to create pol-
3 icy that—

4 (1) evaluates and provides for the inclusion of
5 broadband conduit installation in federally-funded
6 highway construction projects;

7 (2) provides for such inclusion without nega-
8 tively impacting the safety, operations, and mainte-
9 nance of the highway facility, its users, or others;

10 (3) promotes investment and competition by en-
11 suring that communications providers may access
12 such conduit on a nondiscriminatory basis; and

13 (4) limits any burden on State departments of
14 transportation incurred by the inclusion of
15 broadband conduit in such projects.

16 **SEC. 16. NATIONAL BROADBAND FACILITIES ASSET DATA-**
17 **BASE.**

18 (a) NTIA AUTHORITY.—Section 103(b)(3) of the
19 National Telecommunications and Information Adminis-
20 tration Organization Act (47 U.S.C. 902(b)(3)) is amend-
21 ed—

22 (1) in subparagraph (B), by striking “and” at
23 the end;

24 (2) in subparagraph (C), by striking the period
25 at the end and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(D) shall assign to the NTIA the respon-
3 sibility for providing for the establishment and
4 operation of a database in accordance with sec-
5 tion 106.”.

6 (b) NATIONAL BROADBAND FACILITIES ASSET
7 DATABASE.—Part A of the National Telecommunications
8 and Information Administration Organization Act (47
9 U.S.C. 901 et seq.) is amended by adding at the end the
10 following:

11 **“SEC. 106. NATIONAL BROADBAND FACILITIES ASSET DATA-**
12 **BASE.**

13 “(a) DEFINITIONS.—In this section—

14 “(1) the term ‘communications facility installa-
15 tion’ includes—

16 “(A) any wireless or wireline infrastructure
17 for the transmission of writing, signs, signals,
18 data, images, pictures, and sounds of all kinds;

19 “(B) the transmitting device, tower, or
20 support structure, and any equipment, switches,
21 wiring, cabling, power sources, shelters, or cabi-
22 nets, associated with the provision of commu-
23 nications services; and

24 “(C) any antenna or apparatus that—

1 “(i) is designed for the purpose of
2 emitting radio frequency;

3 “(ii) is designed to be operated, or is
4 operating, from a fixed location pursuant
5 to authorization by the Commission; and

6 “(iii) is added to a tower, building, or
7 other structure;

8 “(2) the term ‘covered property’—

9 “(A) means any real property capable of
10 supporting a communications facility installa-
11 tion; and

12 “(B) includes any interest in real property
13 described in subparagraph (A);

14 “(3) the term ‘database’ means the database es-
15 tablished under subsection (b); and

16 “(4) the term ‘Executive agency’ has the mean-
17 ing given the term in section 105 of title 5, United
18 States Code.

19 “(b) DATABASE ESTABLISHED.—Not later than 270
20 days after the date of enactment of the MOBILE NOW
21 Act, the Assistant Secretary, in consultation with the
22 Chairman of the Commission, the Under Secretary of
23 Commerce for Standards and Technology, the Adminis-
24 trator of General Services, and the Director of the Office
25 of Management and Budget, shall—

1 “(1) establish and operate a single database of
2 any covered property that is owned, leased, or other-
3 wise managed by an Executive agency; and

4 “(2) make the database available to—

5 “(A) any entity that—

6 “(i) constructs or operates commu-
7 nications facility installations; or

8 “(ii) provides communications service;
9 and

10 “(B) any other entity that the Assistant
11 Secretary determines is appropriate.

12 “(c) NOTICE OF INQUIRY.—

13 “(1) IN GENERAL.—Not later than 30 days
14 after the date of enactment of the MOBILE NOW
15 Act, the Assistant Secretary shall issue a notice of
16 inquiry to seek public comment to inform the estab-
17 lishment and operation of the database.

18 “(2) CONTENTS.—The notice of inquiry issued
19 under paragraph (1) shall include a request for rec-
20 ommendations on—

21 “(A) criteria that make real property capa-
22 ble of supporting communications facility instal-
23 lations;

1 “(B) types of information related to cov-
2 ered property that should be included in the
3 database;

4 “(C) an interface by which accessibility to
5 the database for all users will be appropriately
6 efficient and secure; and

7 “(D) other information the Assistant Sec-
8 retary determines necessary to establish and op-
9 erate the database.

10 “(d) FEDERAL AGENCIES.—

11 “(1) INITIAL PROVISION OF INFORMATION.—

12 Not later than 90 days after the date on which the
13 database is established under subsection (b), the
14 head of an Executive agency, in accordance with the
15 obligation of an Executive agency under section
16 105(c)(2) to furnish the NTIA with such informa-
17 tion as the NTIA may require in the performance of
18 its functions, shall provide to the Assistant Sec-
19 retary, in a manner and format to be determined by
20 the Assistant Secretary, such information as the As-
21 sistant Secretary determines appropriate with re-
22 spect to covered property owned, leased, or otherwise
23 managed by the Executive agency.

24 “(2) CHANGE TO INFORMATION PREVIOUSLY
25 PROVIDED.—In the case of any change to informa-

1 tion provided to the Assistant Secretary by the head
2 of an Executive agency under paragraph (1), the
3 head of the Executive agency shall provide updated
4 information to the Assistant Secretary not later than
5 30 days after the date of the change.

6 “(3) SUBSEQUENTLY ACQUIRED PROPERTY.—If
7 an Executive agency acquires covered property after
8 the date on which the database is established under
9 subsection (b), the head of the Executive agency
10 shall provide to the Assistant Secretary the informa-
11 tion required under paragraph (1) with respect to
12 the covered property not later than 30 days after the
13 date of the acquisition.

14 “(4) NATIONAL SECURITY EXCLUSION.—

15 “(A) CLASSIFIED INFORMATION.—The
16 head of an Executive agency may exclude classi-
17 fied information from the information provided
18 to the Assistant Secretary under paragraph (1).

19 “(B) OTHER INFORMATION.—If the head
20 of an Executive agency determines, in consulta-
21 tion with the Assistant Secretary, that inclusion
22 of information (other than classified informa-
23 tion) about covered property of the Executive
24 agency in the database would harm national se-
25 curity, the head of the Executive agency may

1 exclude the information from the information
2 provided to the Assistant Secretary under para-
3 graph (1).

4 “(C) CLASSIFIED INFORMATION DE-
5 FINED.—In this paragraph, the term ‘classified
6 information’ means any—

7 “(i) information or material that has
8 been determined by the Federal Govern-
9 ment pursuant to an Executive order, stat-
10 ute, or regulation to require protection
11 against unauthorized disclosure for reasons
12 of national security; or

13 “(ii) restricted data (as defined in sec-
14 tion 11(y) of the Atomic Energy Act of
15 1954 (42 U.S.C. 2014(y)).

16 “(e) STATE AND LOCAL GOVERNMENTS.—The As-
17 sistant Secretary shall make the database available to
18 State and local governments so that such governments
19 may provide to the Assistant Secretary for inclusion in the
20 database similar information to the information required
21 under paragraph (1) regarding covered property owned,
22 leased, or otherwise managed by such governments.

23 “(f) DATABASE UPDATES.—

24 “(1) TIMELY INCLUSION.—After the establish-
25 ment of the database, the Assistant Secretary shall

1 ensure that information provided under subsection
2 (d) or subsection (e) is included in the database not
3 later than 7 days after the date on which the Assist-
4 ant Secretary receives the information.

5 “(2) DATE OF ADDITION OR UPDATE.—Infor-
6 mation in the database relating to covered property
7 shall include the date on which the information was
8 added or most recently updated.”.

9 **SEC. 17. FEDERAL SPECTRUM TRANSPARENCY AND VALUE.**

10 (a) ANALYSIS OF ECONOMIC OPPORTUNITY COST.—

11 (1) DEVELOPMENT OF FRAMEWORK.—Not later
12 than 1 year after the date of enactment of this Act,
13 the NTIA, in consultation with the Commission and
14 the Director of OMB, shall develop a framework for
15 determining the annual economic opportunity cost of
16 each specific Federal spectrum band assigned or oth-
17 erwise allocated for use by a Federal entity.

18 (2) SCOPE.—The framework developed under
19 paragraph (1) shall cover all federally allocated spec-
20 trum bands between 150 megahertz and 6000 mega-
21 hertz, inclusive.

22 (3) GOALS.—The goals of the framework devel-
23 oped under paragraph (1) are—

24 (A) to provide Federal entities with a sus-
25 tained long-term measure of spectrum value to

1 inform the spectrum management decisions of
2 such Federal entities; and

3 (B) to provide the public with increased
4 transparency about how Federal entities use a
5 scarce physical resource.

6 (4) REQUIREMENTS.—The framework devel-
7 oped under paragraph (1) shall—

8 (A) define the term “opportunity cost” as
9 the value of the spectrum, in dollar terms, as
10 if such spectrum were to be reallocated on a li-
11 censed basis to the highest commercial alter-
12 native use that currently does not have access
13 to that spectrum;

14 (B) be updated, annually, to take into ac-
15 count observed market valuations from spec-
16 trum auctions, secondary spectrum trading, and
17 other market indicators of spectrum value;

18 (C) estimate the economic value of allow-
19 ing non-Federal services to operate on a shared
20 basis in a Federal spectrum band;

21 (D) determine the opportunity costs borne
22 by each Federal entity for each spectrum band
23 that is entirely under the control of a single
24 Federal entity; and

1 (E) determine the opportunity costs for
2 spectrum assigned or otherwise allocated to
3 each Federal entity concerned for both primary
4 use and secondary use.

5 (b) REPORTS ON OPPORTUNITY COSTS.—Each Fed-
6 eral entity that has been assigned or otherwise allocated
7 use of a Federal spectrum band shall report, as an off-
8 budget item, the opportunity cost borne by the entity of
9 each spectrum band the entity uses—

10 (1) in the budget of the Federal entity to be in-
11 cluded in the budget of the United States Govern-
12 ment submitted by the President under section 1105
13 of title 31, United States Code; and

14 (2) in the annual financial statement of the
15 Federal entity required to be filed under section
16 3515 of title 31, United States Code.

17 (c) SPECTRUM VALUE ANALYSIS.—Not later than 5
18 years after the date of enactment of this Act, and every
19 5 years thereafter, each Federal entity that has been as-
20 signed or otherwise allocated use of a Federal spectrum
21 band, or otherwise utilizes such spectrum, shall engage in
22 an analysis comparing the opportunity cost of that spec-
23 trum, as such cost is determined by the framework devel-
24 oped by the NTIA under subsection (a), to the projected
25 costs of the Federal entity relocating to other Federal

1 Government spectrum holdings, co-locating with other
2 Government agencies, leasing other non-Federal spectrum,
3 or contracting out for its spectrum activities.

4 (d) SPECTRUM TECHNOLOGY STUDY.—

5 (1) IN GENERAL.—Not later than 18 months
6 after the date of enactment of this Act, and every
7 5 years thereafter, the Chief Technology Officer, in
8 consultation with the Assistant Secretary of Com-
9 merce for Communications and Information and the
10 Comptroller General of the United States, shall ex-
11 amine the technologies and equipment used by Fed-
12 eral entities operating on Federal spectrum alloca-
13 tions and determine if such technologies and equip-
14 ment are the most spectrum-efficient available, and
15 whether such technologies and equipment permit ef-
16 ficient and effective sharing of frequency bands with
17 other Federal systems or commercial broadband
18 services.

19 (2) CERTAIN DETERMINATIONS MADE.—If the
20 results of any study required under paragraph (1)
21 determine that the technologies and equipment of
22 Federal entities operating on Federal spectrum allo-
23 cations are not the most spectrum-efficient available,
24 the Chief Technology Officer, in consultation with

1 the Assistant Secretary and the Comptroller General
2 shall determine—

3 (A) what the costs would be to upgrade
4 such systems to more up-to-date and readily
5 available systems;

6 (B) what benefits would be gained from
7 upgrading, particularly any cost savings or in-
8 creases in spectrum utilization efficiency; and

9 (C) if there are any possible problems with
10 upgrading to more up-to-date systems.

11 (e) SPECTRUM OPPORTUNITY COST AND FRAME-
12 WORK STUDY.—

13 (1) IN GENERAL.—The Comptroller General of
14 the United States, in consultation with the NTIA,
15 shall—

16 (A) conduct a review of the framework de-
17 veloped under subsection (a);

18 (B) conduct a review of the reports re-
19 quired under subsection (b) and each process
20 that a Federal entity concerned uses to evaluate
21 the opportunity cost borne for each spectrum
22 band that Federal entity uses; and

23 (C) make recommendations on how to im-
24 prove such framework and reporting.

1 (2) REPORT.—Not later than 2 years after the
2 date of enactment of this Act, and biennially there-
3 after, the Comptroller General shall submit to the
4 Committee on Commerce, Science, and Transpor-
5 tation of the Senate and the Committee on Energy
6 and Commerce of the House of Representatives a re-
7 port on the review and recommendations required
8 under paragraph (1).

9 **SEC. 18. RULE OF CONSTRUCTION.**

10 Each range of frequencies described in this Act shall
11 be construed to be inclusive of the upper and lower fre-
12 quencies in the range.

13 **SEC. 19. RELATIONSHIP TO MIDDLE CLASS TAX RELIEF**
14 **AND JOB CREATION ACT OF 2012.**

15 Nothing in this Act shall be construed to limit, re-
16 strict, or circumvent in any way the implementation of the
17 nationwide public safety broadband network defined in
18 section 6001 of title VI of the Middle Class Tax Relief
19 and Job Creation Act of 2012 (47 U.S.C. 1401) or any
20 rules implementing that network under title VI of that Act
21 (47 U.S.C. 1401 et seq.).